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August 21, 1997

Mr. K. David Waddell
Executive Secretary
TENNESSEE REGULATORY AUTHORITY
460 James Robertson Parkway
Nashville, TN 37243-0505

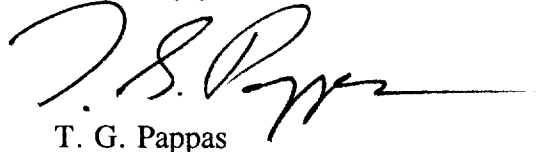
**RE: Universal Service Generic Contested
Case, Docket 97-00888**

Dear Mr. Waddell:

Enclosed please find thirteen (13) copies of the Comments of the Coalition of Small LECS and Cooperatives being filed as per request of the Hearing Officer and as per the filing schedule. If you have any questions do not hesitate to call me.

With kind regards,

Very truly yours,



T. G. Pappas

TGP/br#545918

Enclosures

cc: Counsel on Service List
Each Member of the Coalition of Small LECS
and Cooperatives
Thomas J. Moorman
Steven E. Watkins

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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In Re:

UNIVERSAL SERVICE
GENERIC CONTESTED CASE

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) Docket No. 97-00888
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)

COMMENTS OF THE COALITION OF SMALL LECS AND COOPERATIVES
TO THE HEARING OFFICER'S NOTICE OF PROPOSED SCHEDULE
AND REQUEST FOR COMMENTS

The Coalition of Small LECs and Cooperatives ("Coalition"),¹ hereby provides these responses to the Hearing Officer's "Notice of Proposed Schedule and Request for Comments" issued in the above-captioned matter. These comments are organized using the Hearing Officer's stated issue, followed by the responsive comments of the Coalition. The Coalition applauds the efforts of the Tennessee Regulatory Authority ("TRA") in establishing this proceeding and requesting comments on one of the most important efforts and issues facing the industry today -- the promotion and advancement of universal service in today's environment. The Coalition looks forward to participating in this proceeding and providing its input into this process from the perspective of both small telephone companies/cooperatives and the owners/customers of the same. In support thereof, the Coalition shows the following:

¹ Since the last hearing in this docket, six (6) additional cooperatives have joined the Coalition. The Coalition members are identified in Attachment A hereto. All Coalition members are incumbent local exchange carriers ("LECs") operating within the State of Tennessee.

Preliminary Issues

B. Proposed Phase 1 & Phase 2 Issues:

It has been proposed that Universal Service be processed in two phases. Phase 1 would involve all issues not requiring cost and revenue comparisons. Phase 2 would involve the computation of Universal Service costs and the determination of explicit and implicit subsidies. Under this two phase approach, if Access Charge Reform was consolidated with Universal Service, Access Charge Reform would be considered during Phase 2. Parties are welcome to comment on the proposed separation of issues.

C. Proposed Schedule

Attached to this request is a proposed schedule for Phase 1 and Phase 2 to be utilized in this docket. Parties may comment on the proposed schedule.

D. Consolidation:

Some potential participants, in their initial comments, suggested that the Universal Service Docket No. 97-00888 should be consolidated with the Access Charge Reform Docket No. 97-00889. Please comment on whether consolidation should be considered.

Comment: The Coalition commends the TRA for its early attention to the need for a State universal service plan. The Coalition submits, however, that the design of any universal service plan in Tennessee will depend to a great degree on the ultimate plan that the Federal Communications Commission ("FCC") develops for federal universal service purposes; the state plan will be residual to the federal plan. Because the state plan will depend on details not yet settled on the federal level, as well as depend upon details under the control of federal policy makers, the TRA should maintain a flexible approach in resolving the issues in the State of Tennessee. Accordingly, while Tennessee may not be able to resolve for itself all necessary universal service mechanisms prior to the resolution of matters before the FCC, the Coalition offers the following suggestions with respect to the timing and coordination of the universal service and access charge proceedings in the state.

The specific schedule for comments and determination of the issues may be overly ambitious in both proceedings. The industry is in the midst of a turbulent period. Prudent public policy suggests that the TRA ensure that, in moving forward, it permits sufficient time for parties to fully develop the record before it.

This approach, in the Coalition's view, will aid the TRA in a full understanding of the potential consequences of any proposed alternative it decides will advance universal service goals within Tennessee. To this end, pending multiple proceedings at both the state and federal level not only give rise to a need for coordination of this proceeding with related actions, but also gives rise to a need to schedule all of these matters so as not to overburden the resources of the TRA and affected parties.

The list of issues in this proceeding is enormous; the interdependency among these issues substantial; the time currently provided to review these issues is short. Sufficient time, therefore, should be allowed for the industry to provide informed comment and for the TRA to have a chance to fully grasp the breadth of ideas presented in those comments and to formulate responsive policy. The schedule should be extended.

For example, the Coalition fully anticipates that the policy decisions in the access charge restructuring proceeding will likely have a direct impact on the ability of LECs to maintain reasonable, affordable and comparable rates. Any adjustment to state policy following possible access charge changes will need to be addressed in the context of the universal service plan. Therefore, because the impacts on LECs all involve cost allocation and recovery issues and one change in cost recovery affects another, the two dockets should be consolidated.

Accordingly, as an immediate recommendation, the reply comment date in this proceeding and the access proceeding should be extended to October 15, 1997. All other dates immediately following the original reply date should also be extended. At the TRA's discretion, the Coalition would be willing to discuss informally a prioritization of the issues and a realistic and suitable time frame for the actions necessary for the TRA to be provided the most developed record upon which to base its decisions in this proceeding.

E. Regulations Contemplated:

Do the participants in this docket contemplate, that ultimately, the findings of the TRA regarding Universal Service will need to be incorporated in rules and regulations of the TRA?

Comment: Yes. But it is too early to identify what the exact nature of rule additions and changes may be in order to effectuate the necessary changes to ensure that universal service goals are furthered for all areas and all consumers of Tennessee.

F. Non-rural and Rural Carriers:

Pursuant to the FCC Order 97-157, rural carriers will not see changes in Universal Service support before January 1, 2001 (paragraph 204 of the Order). There is a Joint Board being formed at the FCC level to address the issues unique to rural carriers. Therefore, should there be a bifurcation of the non-rural and rural Universal Service issues leaving the rural Universal Service issues to be considered at a later date? Please comment on this proposal.

Comment: As explained below, the Coalition submits that bifurcation is appropriate to the extent that certain issues and their resolution may directly and immediately affect a LEC depending on whether it is a "rural" or "non-rural" company. Regardless of its classification under the Telecommunications Act of 1996 ("TA-96"), however, the Coalition submits that each party should be provided the opportunity and ability to participate fully in each and every phase of this proceeding to the extent that the issues being addressed are important to it. This is particularly true where policy issues are being addressed that may affect future considerations by the TRA. Accordingly, while the FCC has decided that significant distinctions exist between non-rural and rural telephone companies, the Coalition desires to ensure that these meaningful distinctions that do exist are not overlooked by the TRA in its deliberations in this proceeding.

Many of the issues proposed by the TRA appear to involve immediately the larger non-rural telephone companies. Specifically, it is these larger LECs that will implement changes in federal universal service methods on January 1, 1999. As also recognized, the FCC has adopted a distinct schedule and a more methodical approach, including the use of a rural task force, for the development of models potentially to be applied to rural LECs.

The accumulation of information and the analysis of potential data associated with the development of so-called "forward-looking economic cost" studies for the larger, non-rural LECs alone is an enormous and speculative task. There exists no present need or requirement to incorporate the Coalition members into this process at this time. Moreover, to do so would require a significant investment of limited resources in order to ensure that the distinct characteristics of each company and the area that each serves are thoroughly considered in the process.

The TRA should not underestimate the enormous effort that will be necessary to avoid the pitfalls that the FCC has already encountered in its examination of changes to the universal service plan. The FCC has determined that the existing embedded cost study and average schedule process for determining rural telephone

companies' cost of providing universal service will continue until the year 2001. At that point, rural telephone companies will begin a transition to new forward-looking cost mechanisms if and only if satisfactory models of costs can be developed. The Coalition requests the TRA to place the rural telephone company issues on a similar track in coordination with the interstate processes.

Nevertheless, the Coalition members are obviously interested in the results of any immediate effort which could be applied to them in the future. Therefore, the Coalition will participate in assisting the TRA in its examination of the issues as the TRA moves ahead to develop a state universal service plan.

IV. Definition of Universal Service:

- A. ISSUE: Is Tennessee's definition under Tenn. Code Ann. § 65-5-207(a), consistent with the Federal Act's definition of Universal Service? If not, is Tennessee's definition preempted by the Federal Act?**

Comment: Under the Tennessee Code, universal service consists of "residential Basic Local Exchange Telephone Service at affordable rates and carrier-of-last-resort obligations...." Tenn. Code Ann. § 65-207(a). As explained below, the Coalition does not believe any preemption of this definition is necessary or appropriate; the Tennessee definition is entirely consistent with the FCC list of services.

The FCC has established nine services to be supported by the federal universal service mechanism:

- 1) voice grade access to the public switched network;
- 2) access to free of charge "local usage" defined as an amount of minutes of use of exchange service;
- 3) dual tone multi-frequency signaling or its functional equivalent;
- 4) single-party service or its functional equivalent;
- 5) access to emergency services;
- 6) access to operator services;
- 7) access to interexchange service;
- 8) access to directory assistance; and

- 9) toll limitation services for qualifying low-income consumers.

47 C.F.R. § 54.101(a)(1). Of these services, Tennessee law defines "basic local exchange telephone service" consistent with FCC items 1, 2, 3, 4, 5 and 9: "an access line, dial tone, touch-tone and usage provided to the premises for the provision of two way switched voice or data transmission over voice grade facilities of residential customers or business customers within a local calling area, Lifeline, Link-Up Tennessee, 911 Emergency Services and educational discounts existing on the effective date of this act or other services required by state or federal statute." Tenn. Code Ann. § 65-5-208(a) (emphasis added). As a result of the last clause of Section 65-2-208(a), therefore, the Coalition submits that the definition of universal service for Tennessee purposes is already consistent with TA-96.

By incorporating by reference applicable federal statutes (e.g., TA-96) and therefore the interpretation of that statute by the FCC (i.e., the list of services required for purposes of meeting TA-96's universal service objectives), Tennessee's definition of basic local exchange service is not preempted. Moreover, Tennessee's definition remains dynamic and will accommodate any changes as required by applicable federal law.

In addition, and as further explained in other comments of the Coalition, the Tennessee statute's reference to "carrier of last resort obligations" is substantially the same as the concept of "Eligible Telecommunications Carrier" ("ETC") contained within Section 214(e) of TA-96. In fact, ETC status is required by TA-96 before federal disbursements related to universal service are made, just as that required by Tennessee law. Compare 47 U.S.C. § 254(e) and Tenn. Code Ann. § 65-5-207(a).

Accordingly, the Coalition does not believe that preemption of the Tennessee definition of "universal service" is necessary or appropriate. By its very language, the Tennessee definition remains dynamic and incorporates actions taken to implement the directives of TA-96.

B. ISSUE: Should the TRA recommend to the Tennessee legislature that they adopt the Federal definition of Universal Service?

Comment: No. For the reasons stated in response to Issue IV.A, there is no need for further action.

C. ISSUE: Whether the Federal or Tennessee definition of Universal Services or some combination of both is followed, what services should be provided?

Comment: The Coalition submits that the federal list of services is appropriate for initially establishing the services that must be provided in Tennessee for state universal service purposes. The FCC's list of services are those that must be provided by the Coalition members in order to be eligible to be designated as an ETC, see 47 C.F.R. § 54.201(a)(1), and to continue to receive federal universal service mechanism disbursements beginning January 1, 1998. These federal disbursements not only include the existing cost recovery associated with the federal universal service fund (see 47 C.F.R. Part 36, Subpart F - Universal Service Fund), but also the interstate cost recovery of central office switching equipment owned by smaller LECs (see 47 C.F.R. §§ 36.125 and 54.301 (known as interstate "weighted dialed equipment minutes" or "weighted DEM")), Lifeline and Link-up programs (see generally 47 C.F.R. §§ 54.400-54.417), and Long Term Support (see 47 C.F.R. § 54.303; Long Term Support was designed to mitigate potential disparities in carrier common line access rates charged for smaller LECs).

Beginning January 1, 1998, a Coalition member which currently is receiving cost recovery from these interstate mechanisms will only be qualified to receive such universal service support if it has been designated by the TRA as an ETC. In addition, only ETCs designated by a state commission will be allowed to receive cost recovery support (or net support against funding obligations) pursuant to the health care provisions of the TA-96 and FCC rules. See 47 C.F.R. § 54.201(a)(2).

At this time, therefore, the FCC list of services should be the foundation for the TRA's actions in this proceeding. While TA-96 permits the TRA to establish additional services, see generally 47 U.S.C. § 254(f), the Coalition knows of no compelling reason to engage in such action now. The TRA, industry, and consumers are now confronted with trying to sort through and implement the massive amount of change required by TA-96, as well as various FCC actions (or promised actions) arising from the "trilogy" and separations reform. These federal actions may very well impact the cost of providing basic local exchange telephone service in Tennessee.

Accordingly, the Coalition believes it would be prudent public policy to await finalization of these actions prior to considering refinements to the definition of universal service for state purposes. Moreover, the Coalition notes that the FCC and the Federal-State Joint Board will be reviewing the federal definition of universal service; it would appear appropriate for the TRA to consider any additional state requirements in response to this federal review.

D. ISSUE: Should the TRA provide for additional support under a Tennessee mechanism, for services in addition to those set forth by the FCC?

Comment: As explained above, the Coalition submits that the federal list of services be used by the TRA at this time for purposes of establishing state universal service funding requirements. The FCC has announced its intent to fund only twenty-five (25%) of the universal service burden associated with the cost of providing its list of services less a revenue benchmark, once the FCC's further efforts to establish costing models is completed. Moreover, the Coalition anticipates that, arising from at least separations reform, there is real likelihood that additional costs will be shifted to the intrastate jurisdiction; these additional intrastate costs will need to be recovered. Likewise, the Coalition anticipates that telecommunications infrastructure will be deployed and maintained in rural areas of Tennessee (e.g., "FYI Master Technology Deployment Plan") in order to ensure the availability of services comparable to those in urban areas, thereby avoiding a situation of "haves" and "have nots."

Accordingly, the Coalition submits that the TRA should aggressively move forward in establishing a complementary state universal service fund ("USF") to ensure the availability of an appropriate cost recovery mechanism to the Coalition members as they meet the service and infrastructure needs of the consumers within the rural areas of Tennessee. From a practical and policy perspective, it would be entirely appropriate for the TRA to establish the state USF now in order to foster the advancement of universal service goals in Tennessee and to gain experience in the administration of such a fund.

E. ISSUE: Should the TRA adopt specific procedures for passing upon "exceptional circumstances" as set forth in paragraphs 89-92 of the FCC Order?

Comment: The Coalition notes that the paragraphs 89-92 of the FCC Order address the waiver of the requirements of an ETC to provide single-line service, 911/E911, and toll limitation services. As discussed below, the Coalition does not believe that any extraordinary procedures need be established by the TRA regarding these waiver requirements other than those currently in place within the appropriate FCC rules.

Under the FCC rules, the TRA may grant an extension of time to enable a Coalition member "to complete the network upgrades needed to provide" single line, 911/E911 and toll limitation services for the time that the TRA "deems necessary for that eligible telecommunications carrier to complete network upgrades." 47

C.F.R. § 54.101(c). No additional or specific procedures should be required of a Coalition member to seek such a waiver(s), other than those established by the FCC.

F. ISSUE: Are there any telephone companies that will not be able to offer all the elements of Universal Service by the end of 1998? (e.g. toll blocking) If this is a problem, what steps are needed to remedy the situation?

Comment: With respect to 911/E911 and toll limitation services, some LECs in the State may need to seek the general waiver allowances prescribed by the FCC for the reasons stated below. For example, the requirement that ETCs must offer access to 911 or E911 only applies "to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems." 47 C.F.R. § 54.101(a)(5) Therefore, the special provision allowing additional time to upgrade networks related to access to 911/E911 services need only be granted where a local government has implemented 911/E911 but the LEC that serves that local area is not yet capable of providing 911/E911 access to callers.

The Coalition members have participated in the provision of the infrastructure necessary to facilitate 911 and E911 service in virtually every instance where a local government has initiated the actions under state statute required for the implementation of these emergency services. The Coalition members continue to stand ready to work with their local governments and the TRA to ensure the availability of these emergency services wherever requested. Accordingly, a waiver under the FCC rules by the TRA appears appropriate for additional time on an "as-needed" basis in any limited example where 911/E911 exists but access to the system has been delayed.

With respect to toll limitation services, the Coalition submits that virtually no LEC in the nation is capable of providing this service as the FCC has defined it. The FCC defines toll limitation as "both toll blocking and toll control." 47 C.F.R. § 54.400(a)(4). Toll blocking is "a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel." 47 C.F.R. § 54.400(a)(2). Toll control is defined as "a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle." 47 C.F.R. § 54.400(a)(3).

The "toll control" requirement was apparently added by the FCC at the final stage of the federal rulemaking without much, if any, comment by LECs. Such service would require real-time capability to record and rate every call instantaneously as the caller

attempts to make a toll call. The ability to provide this service also assumes that LECs will be able to differentiate between toll calls and other types of calls. The Coalition is aware that this misunderstanding regarding rational expectations of LEC capabilities has already been explained to FCC staff, and the issue will likely be afforded reevaluation in anticipated FCC reconsideration orders.

The Coalition members are prepared to offer or are already offering toll blocking. They are not, however, prepared to offer toll control for the reasons stated above. Given that the matter of toll control is likely to receive reconsideration and that the TRA has been given the flexibility within the FCC's "additional time" rules to address this requirement specifically, the TRA should grant a blanket waiver with respect to the offering of the "toll control" requirement until such time as the FCC acts upon reconsideration requests of its Universal Service Order. Such action will ensure that the availability of interstate universal service cost recovery support for the Coalition members seeking ETC status is not placed in jeopardy.

V. Affordability:

A. Define and consider affordability of rates:

1. **ISSUE:** Provided that existing rates were set to the "just and reasonable" standard pursuant to Tenn. Code. Ann. § 65-5-201, is there an assumption that current rates are at an affordable level?

Comment: Yes. Whether it be by regulatory action or individual company decision making, rate making decisions include both a qualitative and quantitative assessment regarding the just and reasonableness of the rates set. Quantitatively, the rates are set to recover the costs identified. Thereafter, in establishing the appropriate rate design, i.e., the qualitative assessment, the decision maker considers a variety of factors including whether the rates being set would be affordable for the class of customers that would be charged. Arising from the myriad of interrelated federal proceedings, as well as the issues raised in this proceeding and the access charge proceeding, the Coalition anticipates that similar rate setting and rate design issues will certainly need to be addressed as the ultimate rate levels associated with today's services may need to be revisited.

However, as of today, the Coalition submits that rates are set at reasonable and affordable levels. Subscriberhip levels for service in Tennessee attests to this fact.

2. **ISSUE:** Does the existence of programs to support low income consumers, further the argument that current rates meet the affordability requirement in Tennessee?

Comment: Yes. To the extent that classes of customers are unable to afford telephone services due to their economic condition, e.g., low income consumers, the programs that ensure assistance to these classes should continue and the subscribership within these programs demonstrates the overall level of affordability of rates for other classes of customers. The Coalition notes, however, that this area of concern is separate and apart from the recovery of the underlying network to provide the services to all classes of customers, and is the subject of the Coalition's discussion regarding carrier of last resort and ETCs below.

3. **ISSUE:** Are there other factors that should be considered?

Comment: Yes. The Coalition submits that any discussion of "affordability" should specifically examine the need to avoid rate shock to a customer or class of customer in the event that rebalancing of rates to affordable levels is required.

- B. **ISSUE:** The FCC did not choose to adopt a nationwide rate for Universal Service. Should Tennessee adopt a statewide universal rate?

Comment: At this time, the Coalition submits that it is premature to reach any conclusion regarding the appropriateness of a statewide rate without also ensuring that the method by which it is established is fully understood and analyzed. Currently, local rates are based on a series of area-specific issues such as costs of providing service, local calling scope, extended local calling areas, etc. At the very least, the Coalition submits that any effort aimed at establishing a statewide universal rate must address these local factors in order to ensure that the variation between service areas and customer base are recognized and accommodated. Ultimately, however, it is TA-96's "comparable" urban versus rural rate standard that must govern both the FCC and the TRA. See 47 U.S.C. § 254(b)(3). Accordingly, the Coalition submits that efforts directed to identifying this aspect of universal service may be more productive.

- C. **ISSUE:** Define explicit subsidy?

Comment: The Coalition provides no comment on the proposal contained in the Notice. While it is true that certain rates are based on the pursuit of social objectives, there is no definitive method to determine precisely whether one set of services "subsidize" other sets. The rates that are charged are established

in compliance with time-honored rate design and public policy objectives aimed at ensuring the continuation and promotion of universal service throughout Tennessee. The relevance of the word "explicit" is in the expectation that support for universal services will be provided through cost recovery means that are specific and extraordinary to traditional ratemaking principles.

D. ISSUE: How may complaints filed on the affordability of intrastate rates be addressed?

Comment: Currently, the TRA has both informal and formal complaint procedures for resolving disputes raised by consumers. The Coalition submits that the TRA should continue to utilize these procedures. See Chap. 1220-4-2-.13. At a future date, the TRA, based on its experience, may find it necessary to review its procedures in order to identify the extent, if any, that these procedures require streamlining or improvement. At this time, however, the Coalition submits that the TRA need not expend its resources or the parties' resources in establishing a new method of handling disputes when its existing procedures may be well-suited to address complaints if and when they arise concerning the affordability of intrastate rates.

VI. Carrier Eligible for Universal Service Support

A. ISSUE: Define carrier of last resort.

Comment: The concept of carrier of last resort is akin to the term ETC contained in TA-96. ETCs are defined as entities that,

throughout the service area for which the designation is received--

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

47 U.S.C. § 214(e)(1). With regard to the Coalition members, each of which is a rural telephone company under TA-96, the service area for purposes of this definition is the Coalition member's "study area." 47 U.S.C. § 214(e)(5).

In light of this definition, the Coalition agrees that the carrier of last resort is the carrier ultimately responsible for the provision of the FCC list of universal services within a given area.

B. ISSUE: Determine if a carrier of last resort designation is necessary?

Comment: Because the Coalition sees no practical difference between the definition of carrier of last resort and ETC, the need for designating a Coalition member as an ETC is clear -- the designation is necessary in order for the company to continue to receive those federal universal service disbursements identified in response to Q.IV.C, above. Moreover, from a policy perspective, the Coalition agrees with the Staff that each area of the State of Tennessee should have an ETC designated in order to ensure that all consumers are provided the list of universal services.

C. ISSUE: What mechanism should be put in place if a carrier seeks to withdraw service?

Comment: The Coalition interprets this question as requesting information regarding the procedures for withdrawing from a designation as a carrier of last resort/ETC. Clearly, if a carrier desired to withdraw a service (as compared to withdrawing from an area), it should be able to do so.

However, withdrawing as an ETC is governed by both FCC rule, 47 C.F.R. § 54.205, and Section 214(e)(4) of TA-96. 47 U.S.C. § 214(e)(4). To withdraw as an ETC, however, the following requirements must be met: (1) more than one ETC must be designated for the area; (2) advance notice of the election must be provided to the TRA; (3) the TRA must ensure that "all customers served by the relinquishing carrier will continue to be served" by the remaining ETC or ETCs; and (4) sufficient notice is given to the remaining ETC or ETCs so as "to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier." Further, the TRA is required to "establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed." 47 U.S.C. § 214(e)(4).

The Staff's proposal to require the presence of another ETC prior to permitting an existing ETC to withdraw from an area is entirely consistent with the requirements noted above. Accordingly, the Coalition submits that the TRA adopt the Staff proposal with the requirements of TA-96 being explicitly referenced.

D. ISSUE: What criteria should be used to designate eligible telecommunications carriers?

Comment: The Coalition supports the Staff's proposal to utilize the criteria established by the FCC. This will ensure not only consistency with the FCC's rules, but also consistency with the specific directives of TA-96.

E. ISSUE: Should Universal Service support be provided to cellular carriers and resellers?

Comment: Consistent with the Staff proposal regarding the eligibility criteria for ETC status, the Coalition submits that the TRA follow the same criteria regarding the eligibility of any entity to become an ETC, including cellular carriers and resellers. Moreover, absent ETC status, no carrier should be eligible to receive disbursements from the federal universal service mechanism or the state USF.

F. ISSUE: What is the appropriate role of cooperatives in this proceeding?

Comment: The Cooperative members of the Coalition have elected to participate in this proceeding in order that the benefits associated with the advancement and promotion of universal service is ensured for all areas and all consumers of Tennessee. As telecommunications carriers, the Cooperatives recognize and appreciate their responsibility for ensuring the continuation of universal service in Tennessee, generally, and their service areas, in particular.

VII. High Cost Support

B. ISSUE: If it is determined that Tennessee will do a cost study what would be the core elements (i.e. residential, business, usage).

1. What area should be included in each cost study?
2. The FCC requires deaveraging to the wire center serving area at least, and to smaller areas if feasible. Is this appropriate?

Comment: On August 1, 1997, the Coalition filed comments with the TRA regarding the merits and other issues with respect to the preparation of a state-specific cost model or study for use in determining universal service costs. Those comments stressed that it is premature to treat rural telephone companies under a cost model approach, and that the TRA's immediate effort should be applied solely to the non-rural telephone companies that face an

earlier potential implementation date for applying federal universal service models. While the immediate universal service cost model should not apply to rural telephone companies, the Coalition will offer brief responses to some of the further issues surrounding cost models.

The cost of providing universal service does not end with one class of customers to the exclusion of other classes. LECs construct their networks to provide services to all users in their service area. Therefore, the cost of the network and the need for universal service cost recovery cannot be arbitrarily divided between customers qualifying for universal service and those customers that do not. There are network costs for all customers, regardless of their classification as business, residential, low-volume or high-volume customers. Accordingly, the Coalition submits that there is no need to separate these costs. Universal service cost recovery for the Coalition members, who are all rural telephone companies under TA-96, is for the entire network.

The Coalition supports the notion that determining the network services that universal service should support should evolve over time. The FCC's approach contemplates periodic review and reevaluation of the services outlined in Section 54.101 of the FCC's rules. The TRA should pursue a similarly flexible approach. For the initial approach, however, the Coalition supports the use of the core set of services that the FCC and the Federal-State Joint Board have developed in CC Docket No. 96-45.

Section 254(f) also provides the States with the authority to adopt universal service regulations not inconsistent with the FCC's rules. State regulations may provide for "additional definitions and standards" to preserve and advance universal service. It is, therefore, appropriate for the State of Tennessee to consider additional definitions and standards for carriers and users in the State. However, the degree to which the State will need to develop additional definitions and standards will depend on the success of several other federal mechanisms still under development. The Coalition submits that it is difficult at this time to quantify the magnitude of any additional programs needed in Tennessee. Accordingly, any policy decision on additional state measures should await completion of the pending federal matters. The Coalition believes that the TRA's efforts will be better spent in this initial period in reviewing those matters more critical to the initial stages of the new federal universal service mechanisms now under consideration.

The Coalition still has serious concerns about whether models of costs can successfully achieve the universal service goals outlined by Congress and the objectives determined by the TRA. Nevertheless, to the extent that models of costs are actually used

for universal service at some point in the future, there will be a need to reflect cost levels according to small geographic areas so as to reflect local per-unit cost levels. This degree of disaggregation of per-unit cost is necessary to guard against unfair cream-skimming tactics of new entrants. If the costs and universal service support levels of the network are averaged across larger geographic areas, new entrants may be allowed to provide service to those pockets where the costs of networks are less than the average of the model, and the support is more than needed for that specific pocket area. The degree of disaggregation and the plan to implement such disaggregation will need sufficient detail to guard against new carriers targeting those areas where the difference between actual cost compared to the model result can be exploited.

Any disaggregation of geographic areas for the purpose of predicting network costs according to models which, in turn, is used to determine universal service support levels, is a much different matter than the determination of a geographic area for the purpose of designation of an ETC. The choice of geographic areas is not the same. The geographic area for ETC purposes is used to establish where a carrier satisfies specific conditions necessary for its designation and establishes the geographic scope for which that carrier, if designated, will receive universal service support. Accordingly, the application of a per-unit costing model need not conform to the same geographic areas used to designate carriers.

For non-rural telephone company areas, the TRA has the authority under the TA-96 to establish the "service area" for ETCs and for purposes of determining universal service obligations and support amounts. 47 C.F.R. §214(e)(2). For non-rural telephone company areas, the TRA shall designate more than one ETC for each service area to the extent that each designated carrier meets the requirements. Id.

For rural telephone company areas, TA-96 prescribes the use of "study areas" as currently used by rural telephone companies in the application of the FCC's Part 36 jurisdictional cost allocation rules as the basis for designation of ETCs. 47 C.F.R. § 214(e)(5). The choice of "study area" for an ETC service area for rural telephone companies is required by TA-96 until the FCC, the States and the Federal-State Joint Board establish a different definition for rural telephone company areas, if ever. Id. Also, by the terms of TA-96, prior to designating more than one ETC for an area served by a rural telephone company, a state commission must find that the additional designation is in the public interest. 47 C.F.R. § 214(e)(2).

C. ISSUE: What elements should be included in the revenue benchmark?

Comment: The federal plan for universal service, if and when cost models may be used to determine the network cost to provide universal service, provides support to carriers based on the difference between a predicted cost level and a "benchmark" revenue amount, to the extent that the cost is greater than the benchmark. The underlying theory for this approach is that carriers can recover part of their high costs from revenue sources reflected in the benchmark with the universal service support mechanism funding the remainder.

The FCC and Federal-State Joint Board have decided to utilize a nationwide average determination of a benchmark level of revenues as outlined in the list above in the TRA's question. It is apparent that the FCC does not contemplate that the states will deviate from the nationwide average for any proposal that uses cost models.

However, the Coalition has concerns over whether a nationwide average benchmark will be effective in achieving universal service success. To the extent that the benchmark expects revenue levels to support network costs that are different than actual experienced network costs, the expected result -- the promotion and advancement of universal service -- will not be achieved. If the carrier derives less revenues than the benchmark expects, then there will be more high cost to support than the plan anticipates and the goals of reasonable, affordable and comparable rates may not be met. Therefore, this is an area where the State universal service plan with its "additional definitions and standards" could be instrumental in augmenting the federal plan as necessary.

VIII. Support for Low Income Consumers

A. ISSUE: Define a process to address any waiver requests of carriers to the no-disconnect rule.

Comment: The Coalition submits that the FCC approach to the requirements for waiver appear reasonable. The Coalition will comment later on any specific proposals presented by parties to the extent that such proposals may be preferable to that established by the FCC.

B. ISSUE: Determine if the current level of state discounts for Lifeline should be changed.

Comment: The Coalition members do not see any benefit in denying the full effect of federal matching revenue support to qualifying Lifeline customers served by the LECs in the State. The Coalition

members do not support a necessary minimum amount of charge to a Lifeline customer. Some minor accommodation to limit Lifeline support to no more than the rate charged to Lifeline customers appears to be a reasonable approach; any residual Lifeline support should then be used to defray the cost of the program for other Lifeline customers.

C. ISSUE: Develop a funding mechanism.

Comment: The funding for the State portion of Lifeline support should come from either the state USF or general state revenues. A new state USF would seem to present the most convenient and fair method to fund state Lifeline responsibilities. This method would distribute cost recovery across all users in the state and is preferable to a plan that would involve internal funding within telephone companies. Accordingly, the Coalition submits that, in no event, should the non-Lifeline customers of individual LECs be the funding mechanism for the Lifeline customers of the LECs.

X. Schools and Libraries

A. ISSUE: Determine if additional intrastate support for eligible schools and libraries is needed.

Comment: The need for State support to the schools and libraries will depend on the effectiveness of the federal plan. The federal plan will only distribute specific capped amount of dollar support. Based on this "first come, first served" approach, all that request school and library support may not receive it. Accordingly, there may still be a funding need in the state if the federal dollars are exhausted in any single year.

To the extent that current discounts in Tennessee are for services available to the public, these current discounted services are eligible for funding support. Therefore, the existing discount program participants should apply for federal support when the program becomes active.

Any other enhancements to the schools and libraries program should await an examination of the effectiveness of current federal plans to be enacted in the coming months. The TRA should reevaluate the need for additional support once the effectiveness of already existing support is determined.

B. ISSUE: Develop a funding mechanism if needed.

Comment: According to the federal program, support will be equal to the discount percentage applied to the rate charged for similar services provided to other non-school and library customers. The FCC's approach can be applied to the current state discounted

services to determine whether the discounted rate is above or below the matrix discount expectation. The Coalition, therefore, does not see any benefit to be derived from or the need for additional cost studies.

Consistent with the discussion above, to the extent that the federal schools and libraries program needs to be supplemented by a state program, those supplements should be funded by the state USF. The Coalition supports the inclusion of state schools and libraries programs in a state USF mechanism. As with Lifeline service discussed above, this method of funding support for schools and libraries avoids disparate funding by individual LECs or among customers of individual LECs.

C. ISSUE: Address as necessary any school and library petitions regarding pre-discount price.

Comment: The pre-discount price is determined by the "lowest corresponding price" which is the lowest price a carrier charges non-residential customers for telecommunications services that are similar to those to be provided at discount to a school or library. The lowest corresponding price will be determined from service rates already offered by carriers. A school or library can request a lower price if it believes that the rate offered does not represent the lowest corresponding price. The service provider can ask for a higher rate if the corresponding price is not compensatory for the service provided.

In any event, the Coalition does not expect a major number of disputes to arise over what the publicly available corresponding price should be. The Coalition maintains that it would not be productive to develop extensive policy over this issue prematurely or without any indication that a problem really exists. However, should a dispute arise, the TRA should utilize already available complaint processes to resolve the dispute.

XI. Support For Health Care Providers

A. ISSUE: Determine if additional intrastate support for eligible health care providers is needed.

B. ISSUE: Develop needed funding mechanisms.

Comment: During the period in which the TRA will be examining universal service programs to be implemented in the State, the details of the federal universal service health care program will become more apparent. The need for a state plan will, as with other provisions, depend on the extent of available support and the effectiveness of the federal universal service plan. Therefore, the TRA should await any determination of the extent of a state

health care universal service program and the development of detailed administrative rules for health care universal service programs until the administrator of the federal health care universal service program has developed its procedures.

The Coalition will provide more input into these issues as the extent and nature of the federal health care program develops.

XIII. Administration of Support Mechanisms

- A. ISSUE: Determine which companies qualify as non-rural carriers and are subject to 1/1/99 Universal Service support.**

Comment: All LECs in the State of Tennessee, to the extent they are designated as ETCs, will be subject to January 1, 1999 universal service support. The difference between rural and non-rural telephone companies arises in the context of the FCC's expectation that it will introduce a universal service cost model for non-rural telephone companies. All companies, whether rural or non-rural, participate in universal service support programs.

Regardless of the relevant distinction, all of the Coalition members are rural telephone companies within the State of Tennessee.

- B. ISSUE: Determine method for transition from current support to new support.**

Comment: The "systems" under consideration here involve how the cost incurred by carriers in the State of Tennessee will be recovered from the available sources of revenue in the State. Most of the cost recovery sources are revenues derived from various services provided to telecommunications customers. Among these sources (including flat-rated basic services, extended calling scope service, intrastate toll, intrastate access, and others), there is likely to be rate changes and cost recovery shifts in coming years which may need to be addressed in a transition plan. For example, the TRA has before it a proceeding to examine restructuring of access charges which may produce substantial revenue changes for LECs in the State. Any dislocations of one revenue source will cause changes in the rates for other services. The speed at which rates can be readjusted or increased will depend on the amount of cost recovery shifts that may take place. In any event, the Coalition anticipates that there could very likely be a need for a transition period to moderate any substantial changes occurring as a result of decisions at the federal level and by the TRA in this and other proceedings.

The second source for recovery of costs may be a new state USF. The timing for introduction of the state USF and the ultimate

extent of the program will depend on factors and federal policies not yet settled. Nonetheless, the Coalition submits that the TRA should ensure that, if changes in cost recovery occur that affect the LECs' commitment to universal service network deployment in the state, the state USF will be used to fund the cost recovery shortfall. Therefore, the timing and any phased-in introduction of the new state USF will depend on a large number of factors still under preliminary review. The TRA should return to the issue of transition once these factors are more identified and defined.

C. ISSUE: Determine the structure of the intrastate Universal Service fund.

1. How will it be created?
2. Will it be consistent with or not consistent with the Federal fund?
3. Who will contribute to it?
4. How often will contributions be made?
5. What basis should be used for contributions?
6. Who is eligible to receive support?
7. How funds will be distributed?
8. How should the TRA ensure that the fund is non-discriminatory and competitive neutral?

Comment: As the details and proposals regarding the federal USF become more apparent over the coming year (or perhaps longer), the Coalition will be in a better position to comment on these details of administration. While the answers to many of these questions must await further decisions, the Coalition, nevertheless, commends the TRA for its attention to an exhaustive list of issues associated with administration.

The Coalition believes there may be benefits in conforming many of the structure and administrative details of a state USF to that used for the federal plan. The TRA should consider the formation of an entity under the direction of the providers of services in the state to administer the program. This formal entity may consider the formation of an administrative staff or the use of other already available outside sources of staffing.

All carriers that provide intrastate telecommunications services to end users in the State should be responsible for funding the state USF. Once the list of intrastate service providers is established, assessments to fund the state USF should be calculated on the basis of total intrastate and interstate retail, end user revenues that carriers receive. An assessment rate to be applied to this revenue base should be calculated to provide the necessary funds for both the state USF requirements to carriers, to customers (e.g., Lifeline and Link-up) and to recover the costs associated with the administration of the state USF.

An assessment approach that is based on total revenues should apply only to services provided to end users in the State on a retail basis. Services provided on a wholesale basis by one carrier to another carrier should not be included because to do so would result in the possibility of double treatment. Retail, end user revenues are the most effective means to guard against double treatment of revenue in the funding mechanics. The Coalition notes that the use of retail, end user revenues is consistent with the approach that the FCC will employ for the federal responsibility.

The frequency of contributions according to the plan described above will depend on the amount of funds needed, the degree to which the administrator will be able to predict accurate funding needs, the frequency of changes in the funding needs, and the cost of submitting and collecting funds. Accordingly, the TRA may wish to establish periodic revenue bases for carriers upon which the state USF assessment is applied, and to change the assessment rate as needed to meet any changing funding needs.

ETCs should be eligible for support. The TRA should designate ETCs consistent with federal rules.

The distribution to ETCs will depend on the details of the plan and the manner in which the cost recovery to ETCs is to be quantified. Once the details of the plan become more final, the TRA should seek additional comment from interested parties on the proposed mechanics for distribution.

In general, the Coalition submits that the general outline of an administration of a state USF in Tennessee according to the discussion above should satisfy any non-discriminatory criteria important to the TRA and consistent with the public interest.

D. ISSUE: Determine notification requirements regarding companies' certification of rural carrier status.

Comment: In all but an extremely small number of exceptions, LECs know with a level of assurance whether they will be a rural telephone company in future years. The criteria established under TA-96 provides a readily verifiable basis for most carriers to determine whether they are a rural telephone company. Accordingly, the need for specific verification of rural telephone company status is minimal because of the ease in which the determination can be made by the established criteria.

The distinction between rural and non-rural carriers for federal universal service purposes does not arise until January 1, 1999 when the FCC's plan "bifurcates" into divergent approaches for the two types of LECs. Therefore, it is not until January 1, 1999 that certification serves any purpose under the federal plan.

The TRA need not develop specific rural telephone company certification procedures for State purposes because the FCC has now established its own set of self-certification procedures that could apply for both FCC and State commission notifications. See Public Notice, DA 97-1748, released August 14, 1997. These procedures call for a LEC that seeks to be classified as a rural carrier to file, by April 30, 1998, a letter with the FCC that explains how the LEC meets one of the four criteria established by TA-96 to be deemed a rural telephone company. The FCC will establish a list of self-certified LECs and will perform random verifications. For state commission purposes, the TRA should simply require carriers that submit these letters to the FCC also to send a copy to the TRA. The TRA can also obtain the list compiled by the FCC for State purposes. By relying upon the FCC's procedures, the Coalition submits that there is no public policy reason to establish separate rural telephone company certification procedures for Tennessee.

E. ISSUE: Determine need for public interest payphones and develop funding mechanisms, if required.

Comment: The Coalition has only limited comments on this issue at this time. The Coalition does not object to requirements for LECs to provide a limited number of payphones that serve a public interest. However, such a policy for any mandatory requirement should be accompanied by a sufficient and equal provision to compensate LECs for providing public interest payphones. Compensation should recognize the high cost of maintaining public interest payphones. The Coalition believes that the state USF would be the more appropriate mechanism to cover the cost of public interest payphones.

F. ISSUE: Determine if the TRA should administer the intrastate Universal Service Fund.

G. ISSUE: Appoint intrastate Universal Service Fund Administrator.

Comment: The Coalition does not believe that the TRA, itself, is best suited to administer the intrastate Universal Service Fund. An entity that is expert in administering these types of funds, is expert in the definition of the mechanical details of the plan, and can implement collection and distribution of the fund without distraction from other issues would be appropriate for the job. Accordingly, the TRA should consider the formation of an entity under the direction of the providers of services in the state to administer the program. This formal entity may consider the formation of an administrative staff or the use of other already available outside sources of staffing. Ultimately, the TRA would continue to oversee the actions of, and make policy decisions with

respect to, the state USF even though the administrator would conduct the day-to-day operations of the state USF.

- H. ISSUE: Determine if contributions to the Universal Service fund may be recovered by contributors, (i.e. passed to end users).**

Comment: As stated above, all carriers that provide intrastate telecommunications services should be responsible for funding the state program, and there should be an assessment to fund the program based on total intrastate and interstate retail, end user revenues that carriers receive. Please also see response to Q.XIII.C, above.

This assessment assumes that carriers will recover the contributions from the users of services that produced the revenue on which the assessment is applied. The retail revenue method of assessment, in effect, spreads the funding across all users in the state based on the relative amount of retail telecommunications each customer purchases. The Coalition submits that this is a reasonable means to spread the funding responsibility across the state without the beneficiaries of the program having the potential to fund a disproportionate share.

XIV. Other

- A. ISSUE: Would the use of task forces, advisory committees, technical conferences and settlement conferences in this proceeding be helpful?**

Comment: Yes. The use of these alternative mechanisms to traditional regulatory litigation would be helpful in this proceeding. The Coalition is interested in utilizing any procedure that will enable this proceeding to resolve issues in the most efficient and economical manner, subject to traditional notions of fairness and due process. While areas of general consensus probably exist, ultimately there will be issues that only litigation will resolve. Accordingly, the Coalition submits that the TRA should seek to identify consensus areas early in this process so that parties can marshall resources effectively to address those contested issues that are important to them.

- B. ISSUE: Determine intrastate funding requirements for Tennessee Relay Center (TRC).**

Comment: The Coalition submits that the funding of the TRC be established consistent with the requirements of the TA-96 and Section 254(f), specifically. This will ensure that funding for TRC is provided in a manner that ensures that the financial commitment to support these services is shared by all

telecommunications companies through the rates they charge their respective end users. At the time of the creation of the state USF, the administration of the TRC should be transferred to the state USF administrator from BellSouth.

C. ISSUE: Determine effect of BST stay on Universal Service.

Comment: The Coalition takes no position on this issue.

D. ISSUE: Determine any needed changes to TRA rules, state laws, etc.

Comment: The Coalition has not identified any needed change to the TRA rules or state laws at this time. As this proceeding continues, however, the resolution of issues may require rule changes or the development of rules. The possibility also exists that state laws may require change. If the requirement to propose rules or changes to state law does present itself, drafting of any changes should be undertaken based on the specific issue that requires such action.

E. ISSUE: Determine date that Universal Service will be re-addressed.

Comment: The Coalition agrees that any TRA activity concerning the review of the definition of universal service be conducted in concert with FCC action.

F. ISSUE: Determine and implement service quality standards.

Comment: The Coalition does not believe that the TRA need establish additional service quality standards at this time. However, the TRA should make clear that it expects all service providers to meet such standards in order to ensure that the interconnection of all networks meet acceptable service quality standards. Likewise, the TRA should investigate what service quality standards are necessary in the future, and dispense with those standards that the industry and the market will ensure are met.

G. ISSUE: Are embedded cost studies appropriate to determine implicit subsidies?

Comment: The Coalition submits that, consistent with the approach that the FCC will take for rural telephone companies, the use of embedded costs to determine state USF requirements is appropriate. These costs identify the actual costs incurred by a company for the provision of the services offered to consumers. These costs are readily identifiable and verifiable through approved rules used today to determine the jurisdictional costs of companies. For the

reasons stated above, the Coalition submits that, while certain rates are based on the pursuit of social objectives, there is no definitive method to determine precisely whether one set of services "subsidize" other sets. The rates that are charged are established in compliance with time-honored rate design and public policy objectives aimed at ensuring the continuation and promotion of universal service throughout Tennessee.

H. ISSUE: Determine method to calculate implicit subsidies (i.e. by element, group or category).

Comment: Please see response to Q.XIV.G, above.

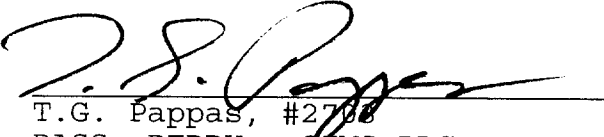
I. ISSUE: Determine effect of contracts between LECs (i.e. EAS, toll, private line, etc.) on subsidies.

Comment: To the extent that there are revenues being shared for connecting carrier services, those revenues are a result of practices to ensure that appropriate cost recovery is accomplished between those connecting carriers. To the extent that decisions in this proceeding affect the cost recovery burdens associated with such services, recovery from the state USF may be necessary. The need for such recovery would include a variety of factors including, but not limited to: (1) whether the service offering should continue; (2) what the level of increased cost is associated with such service; and (3) whether recovery of such additional costs would result in rates above a comparable and affordable level.

Respectfully submitted,

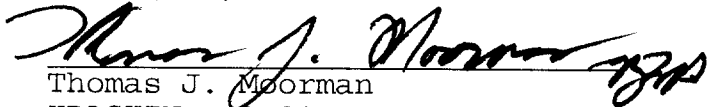
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ATTACHMENT "A"

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

**In Re: Universal Service Generic)
Contested Case) Docket No. 97-00888**

The members of the Coalition of Small LECS and Cooperatives in the above docket are as follows:

Ardmore Telephone Company
Ben Lomand Telephone Co-Op
Bledsoe Telephone Cooperative, Inc.
The Century Telephone Enterprises, Inc. Companies, consisting of:
 (a) Century Telephone of Adamsville
 (b) Century Telephone of Claiborne
 (c) Century Telephone of Ooltewah-Collegedale, Inc.
DeKalb Telephone Cooperative, Inc.
Highland Telephone Cooperative, Inc.
Loretto Telephone Company
Millington Telephone Company
North Central Telephone Cooperative, Inc.
The TDS TELECOM Companies, consisting of:
 (a) Concord Telephone Exchange, Inc.
 (b) Humphreys County Telephone Company
 (c) Tellico Telephone Company, Inc.
 (d) Tennessee Telephone Company
The Telephone and Electronics Corp (TEC) Companies, consisting of:
 (a) Crockett Telephone Company, Inc.
 (b) Peoples's Telephone Company, Inc.
 (c) West Tennessee Telephone Company, Inc.
Twin Lakes Telephone Cooperative, Inc.
United Telephone Company
Yorkville Telephone Cooperative, Inc.
West Kentucky Cooperative, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been mailed,
U. S. mail, postage prepaid, to the following persons, this the 21st day of August, 1997.

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